

*** NOT FOR PUBLICATION ***

NO. 25564

IN THE SUPREME COURT OF THE STATE OF HAWAII

RICH ZUBATY, Plaintiff-Appellant

vs.

MARGARET MAY NOYCE, DAN VANARSDALE, PENDRED NOYCE, TOM CATTELL,
DAN BURKE, SEAN MORRIS, LINDA SHERRARD, CARL MENDENHALL,
PROSECUTING ATTORNEY, COUNTY OF MISSOULA, MONTANA, VICE PRESIDENT
AND/OR CHIEF OFFICER OF THE TRUST DEPARTMENT, FIRST INTERSTATE
BANK, MISSOULA, MONTANA, Defendants-Appellees

and

JOHN AND JANE DOES 1-5, DOE CORPORATIONS 1-5, DOE PARTNERSHIPS
1-5, DOE LEGAL ENTITIES 1-5, Defendants

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 01-1-0546)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, and Nakayama, JJ.,
and Circuit Judge Marks, in place of Acoba, J., unavailable,
and Circuit Judge Wilson, assigned by reason of vacancy)

Upon review of the record, it appears that the circuit court's July 31, 2002 order dismissing the claims against defendants Noyce and Vanarsdale and the December 16, 2002 order dismissing the claims against all other defendants, the Honorable Joseph E. Cardoza, presiding, have not been reduced to a separate judgment, as required by Rule 58, Hawai'i Rules of Civil Procedure. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994). Thus, this appeal is

***** NOT FOR PUBLICATION *****

premature and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, April 25, 2003.